

## Agricultural Marketing Service, USDA

## § 1214.41

Lakes): Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Texas, and Wisconsin.

(iii) Four producer members from Region #3—Eastern Region (states east of the Great Lakes): Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, New York, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, Vermont, Washington, DC, West Virginia, and all U.S. Territories located in the Atlantic Ocean and Caribbean Sea, including but not limited to Puerto Rico.

(2) One Importer member.

(b) *Adjustment of membership.* At least once every five years upon implementation of the Order, but not more frequently than once every three years, the Board will review the geographic distribution of United States production of Christmas trees and the quantity and source of Christmas tree imports. The review will be conducted through State crop production figures and Board assessment records, including the amount of assessments collected from importers, or other government data. If warranted, the Board will recommend to the Secretary that membership on the Board be altered to reflect any changes in geographic distribution of domestic Christmas tree production and the quantity of imports. *Provided*, that there shall be at least one importer member on the Board. Such adjustments shall not increase the total number of Board members. The adjustments to the Board membership would be submitted to the Secretary by Board recommendation and be implemented by the Secretary through rulemaking.

### § 1214.41 Nominations and appointments.

(a) Voting for producer members will be made by mail ballot, electronic mail, in person, or by facsimile.

(b) Nominations for the initial Board will be conducted by the Department. Subsequent nominations will be conducted by the Board.

(c) The Board shall outreach to all segments of the Christmas tree industry and solicit nominations as described in paragraphs (d) and (e) of this section. Nominees must domestically produce or import more than 500 Christmas trees during the most recent fiscal period.

(d) Nomination of producer members will be conducted by the Board. The Board staff will seek nominations for each vacant producer seat from each region from producers who have paid their assessments to the Board in the most recent fiscal period. Producers who produce Christmas trees in more than one region may seek nomination only in the region in which they produce the majority of their Christmas trees. For selection to the initial Board, the Secretary will notify producers to request nominations to the Board. Subsequent nominations will be submitted to the Board office and placed on a ballot that will be sent to producers in each region for a vote. Producers who produce Christmas trees in more than one region may only vote in the region in which they produce the majority of their Christmas trees. The nominee receiving the highest number of votes and the nominee receiving the second highest number of votes shall be submitted to the Department as the producers' first and second choice nominees. The Board shall submit nominations to the Secretary not less than 90 days prior to the expiration of the term of office.

(e) Nominations for the importer member(s) will be conducted by the Board. The Board will solicit importer nominations from those importers who have paid their assessments to the Board in the most recent fiscal period. For selection to the initial Board, the Secretary will notify importers to request nominations to the Board. Subsequent nominations will be submitted to the Board office and placed on a ballot that will be sent to importers for a vote. The Board shall submit those nominations to the Secretary not less than 90 days prior to the expiration of the term of office. Two nominees for each importer position will be submitted to the Secretary for consideration.

## **§ 1214.42**

(f) From the nominations, the Secretary shall select the members of the Board for each position on the Board. Members will serve until their successors have been appointed by the Secretary.

### **§ 1214.42 Term of office.**

Board members will serve for a term of three years and be able to serve a maximum of two consecutive three-year terms. When the Board is first established, the members will be assigned initial terms of two, three, and four years. Initial terms will be staggered to assure continuity of the Board. The term of office will begin on January 1 and conclude on December 31. Members serving the initial term of two and four years will be eligible to serve a second term of three-years. Thereafter, each of the positions will carry a full three-year term. Board members shall serve during the term of office for which they have been appointed and qualified, and until their successors are appointed and have qualified.

### **§ 1214.43 Vacancies.**

(a) In the event that any member of the Board ceases to be a member of the category of membership from which the member was appointed to the Board, such position shall automatically become vacant.

(b) If a member of the Board consistently refuses to perform the duties of a member of the Board, or if a member of the Board engages in acts of dishonesty or willful misconduct, the Board may recommend to the Secretary that the member be removed from office. If the Secretary finds the recommendation of the Board shows adequate cause, the Secretary may remove such member from office. Further, without recommendation of the Board, a member may be removed by the Secretary upon showing of adequate cause, including the failure by a member to submit reports or remit assessments required under this part, if the Secretary determines that such member's continued service would be detrimental to the achievement of the purposes of the Act.

(c) Should any member position become vacant, successors for the unexpired terms of such member shall be

## **7 CFR Ch. XI (1-1-13 Edition)**

appointed in the manner specified in § 1214.41. A vacancy will not be required to be filled if the unexpired term is less than six months.

### **§ 1214.44 Procedure.**

(a) At a Board meeting, it will be considered a quorum when a majority of the Board members is present.

(b) All Board members will receive a minimum of 14 days advance notice of all Board and committee meetings, except when emergency circumstances exist and meetings need to be held prior to the advance notice.

(c) Each member of the Board will be entitled to one vote on any matter put to the Board. For any action of the Board to pass, at least a majority of the Board members present must vote in support of such action.

(d) The Board may appoint committees as necessary. It will be considered a quorum at a committee meeting when at least a majority of those appointed to the committee are present. Committees may consist of persons other than Board members, and such persons may vote in committee meetings as the Board shall determine. These committee members shall serve without compensation, but shall be reimbursed for reasonable travel expenses, as approved by the Board.

(e) In lieu of voting at a properly convened meeting, and when, in the opinion of the Board's chairperson, such action is considered necessary, the Board may take action by mail, telephone, electronic mail, facsimile, or any other means of communication. Any action taken under this procedure is valid only if:

(1) All members and the Secretary are notified and the members are provided the opportunity to vote;

(2) A majority of the members vote in favor of the action; and

(3) All votes are promptly confirmed in writing and recorded in the Board minutes.

(f) There shall be no voting by proxy.

(g) The chairperson shall be a voting member.